

## REMARKS

Claims 1-27 are presently pending in the case. Claim 17 has been amended. Claims 28, 30-33 and 36 have been cancelled. The amendment is supported by the specification as originally filed. For example, see page 9 lines 3-15 and Figures 1-3. Reconsideration of the present case in view of the remarks herein is requested.

### **Claim rejections under 35 USC §102**

The Examiner rejected claims 1-13 and 15-26 under 35 USC §102(b) as being anticipated by U.S. Patent 5,284,133 to Burns et al (hereinafter Burns et al). The rejection is traversed.

Burns et al does not anticipate independent claim 1, for example. For a rejection under 35 USC §102 to be proper, the reference relied upon must disclose each and every element of the claimed invention. Non-disclosure of a single element, feature or limitation of the claim negates anticipation. Claim 1 is to an aerosol drug delivery system comprising, inter alia, an electromechanical lockout device having an inactive state which prevents manual actuation of the aerosol generator and an active state which permits manual actuation only when an electric current is being supplied to place the lockout device in the active state. This positively recited feature is not disclosed by Burns et al.

Burns et al does not disclose a prevention device that prevents manual actuation when in an inactive state and permits it only when in an active state. Instead, in Burns et al, a controller sends a signal to activate the lockout mechanism and sends a signal to disable the lockout mechanism (see column 10 line 28 through column 11 line 38, for example). As can be seen, the device can be operated when in an inactive state (element 42). Thus, Burns et al does not meet the claim limitation of only being actuatable when in an active state, *i.e.*, when power is being supplied to the lockout device. Since Burns et al does not disclose each and every feature set forth in claim 1,

it does not anticipate the claim. Thus, the Examiner is respectfully requested to reconsider the language of claim 1 and withdraw the rejection thereof under 25 USC §102.

The Examiner directs Applicant's attention to column 8 lines 20-30 in support of the position that the lockout mechanism of Burns et al is in an inactive state when preventing actuation. However, the passage referred to discusses only the situation when the device is locked up. The recitation does not refer to a situation when the device is actuatable and certainly not to a situation where the device is only actuatable when in an active state. Thus, there is nothing in the recitation or in the balance of the reference to suggest that the Burns et al device is only actuatable when in an active state. Accordingly, the recitation does not serve to show that Burns et al anticipates claim 1.

Applicant requests withdrawal of the rejection of claim 1 under 35 U.S.C. §102(b). In addition, Applicant requests withdrawal of the rejection of claims 2-13, 15 and 16 which depend from claim 1 and are not anticipated by Burns et al for at least the same reasons as claim 1.

Burns et al does not anticipate independent claim 17 either. Claim 17 is to a method comprising supplying electrical current to a lockout device to place the lockout device in an active state thereby permitting manual actuation only when the electrical current is being supplied to place the lockout device in the active state. Burn et al does not disclose supplying electrical current to a lockout device to place the lockout device in an active state. Burns et al also does not disclose permitting manual actuation only when an electrical signal is being supplied. Therefore, Burns et al does not anticipate claim 17.

Applicant requests withdrawal of the rejection of claim 17 under 35 U.S.C. §102(b). In addition, Applicant requests withdrawal of the rejection of claims 18-26 which depend from claim 17 and are not anticipated by Burns et al for at least the same reasons as claim 17.

#### **Claim rejections under 35 USC 103(a)**

The Examiner rejected claims 14 and 27 under 35 USC §103(a) as being unpatentable over Burns et al in view of U.S. Patent 4,934,358 to Nilsson et al (hereinafter Nilsson et al). The rejection is traversed.

Claims 14 and 27 are not rendered unpatentable by Burns et al and Nilsson et al. Claims 14 and 27 depend from claims 1 and 17, respectively, and include all the limitations thereof. Nilsson et al does not make up for the deficiencies of Burns et al with regard to claims 1 and 17, *i.e.*, Nilsson et al does not teach or suggest a prevention device that prevents manual actuation when in an inactive state and permits it when in an active state. Since neither Burns et al nor Nilsson et al discloses, teaches or suggests all positively recited features in claims 1 and 17, Burns et al and Nilsson et al do not render claims 1 and 17 unpatentable. For at least the same reason, Burns et al and Nilsson et al do not render claims 14 and 27 unpatentable, both of which depend from claims 1 and 17, respectively.


## Conclusion

The claims are allowable for the reasons given above. Thus, the Examiner is respectfully requested to reconsider the present rejections and allow the presently pending claims. Should the Examiner have any questions, the Examiner is requested to call the undersigned at the number given below.

Respectfully submitted,

JANAH & ASSOCIATES

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